

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

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BRENDAN KELLY,

Plaintiff,

v.

CIVIL ACTION NO. 15-CV-00234-JL

LIBERTY INSURANCE CORPORATION  
D/B/A LIBERTY MUTUAL,

Defendant

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**AFFIDAVIT OF BRENDAN KELLY**

NOW COMES Brendan Kelly, and after being duly sworn, deposes and states as follows:

1. I am the plaintiff in this action. I am over 18 years of age, and have personal knowledge of the facts set forth in this affidavit. I currently reside at 4611 NE Prescott Portland, OR 97218.
2. On December 10, 2013, I was employed by Plum Creek Timber Company, Inc. I was driving a 2012 Toyota Tacoma truck provided to me by Plum Creek. The truck was registered in New Hampshire by Plum Creek and garaged in New Hampshire.
3. On December 10, 2013, I was driving the Plum Creek truck on Route 3 in Columbia, New Hampshire on my way to a job site. A car coming toward me, heading north on Route 3, swerved over the double yellow line and hit me head-on.
4. I later learned that the car was driven by George Motard and that he swerved into my lane because of some sort of medical event. Mr. Motard died at the scene of the accident.

5. I was not charged, cited, or found at fault for the accident. The police determined that Mr. Motard was at fault for the accident.

6. I was seriously injured in the accident. My left leg was fractured in several places, and I was injured in other places as well. I have had eight (8) surgeries so far because of those injuries, and my doctors tell me that I am likely to require additional surgery in the future. I have had to undergo extensive physical therapy. I have been permanently injured and will have arthritis in my leg and ankle as a result of these injuries. My medical bills to date total over \$450,000.

7. When Plum Creek provided me with the Toyota Tacoma truck to drive for work, I understood that the truck was fully insured. I expected that I was protected by the laws of New Hampshire regarding insurance when I was driving that New Hampshire truck on New Hampshire roads.

8. I did not know that Plum Creek insured itself for liability to far greater limits than it insured me as driver for uninsured motorist coverage.

9. I never received any information from Liberty Insurance that told me that the uninsured motorist coverage required by New Hampshire law had been rejected for its insurance policy on the truck.

10. If I had known that the uninsured motorist coverage protecting me when I drove Plum Creek's truck was a lot lower than the liability limits protecting Plum Creek, I would have looked into buying additional UM coverage for myself in that truck.

11. George Motard's insurance company paid the limits of its policy, \$100,000, for the accident.

12. Plum Creek's carrier ACE paid its \$1,000,000 uninsured motorist policy limits,

minus a credit for the payment from Mr. Motard's company, to me.

FURTHER YOUR AFFIANT SAYETH NOT.

Date: 5-17-16

  
Brendan Kelly


State of Oregon

County of Multnomah

This 17<sup>th</sup> day of May 2016, personally appeared the above named Brendan Kelly, known to me or satisfactorily proven to be the person whose name is subscribed above, and acknowledged the foregoing to be true to the best of his knowledge and belief.

Before me,

  
Notary Public

  
Type or print name

My commission expires: 10/12/16

